

Under Illinois law, a trade-in credit is available to a retailer when the purchaser trades in tangible personal property of like kind and character as that which is being sold by the retailer. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

October 31, 2002

Dear Xxxxx:

This letter is in response to your letter dated August 14, 2002. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Several questions have recently been raised on the state's regulations which relate to tangible personal property taken in trade against the purchase of new tangible personal property.

For example, a customer purchases a new tire changer from our company. Our company in turn accepts as trade-in of not one tire changer but two old tire changers. For purposes of this example, the new tire changer is \$2,000 and we give the customer a \$1,000 trade-in credit for first old tire changer taken in trade and \$1,200 for the second tire changer taken in trade.

First, does the State of Illinois require the trade-in item be the same type as the item which is purchased from the vendor (e.g., tire changer)? Or can it be items which are not 'exactly' like each other; tire changer vs tire balancer?

Second, does the state require a one-to-one ratio (one new vs one old) when a vendor gives tax credit for the trade-in item(s)? Or, does the state's regulations allow the vendor to give a tax credit for more than one trade-in item (e.g., 2 trade-in tire changers) as long as the tax credit for the trade-in items does not exceed the tax which is charged on the purchase of the new item?

Thank you in advance for your prompt attention to this issue. Please free to contact me if you need further information.

DEPARTMENT'S RESPONSE:

Under Illinois law, a trade-in credit is available when the purchaser trades in tangible personal property of like kind and character as that which is being sold. See the enclosed copy of 86 Ill. Adm. Code 130.425. Trade-ins are not limited to the exact same items as which is being purchased. The customer need only trade-in items that are of "like kind and character."

Subsection (b) of Section 130.425 provides some examples of what the term "like kind and character" means:

"The phrase 'like kind and character' includes, but is not limited to, the trading of any kind of motor vehicle on the purchase of any kind of motor vehicle, or the trading of any kind of farm implement on the purchase of any kind of farm implement, while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale."

Based upon the limited descriptions of the items in your letter, a customer would be able to trade-in a used tire changer or a tire balancer on the purchase of a new tire changer. Please note that a customer may also trade-in more than one like kind item on a purchase. However, the trade-in credit cannot exceed the amount of the purchase.

Although it may not apply to your company's business, tangible personal property that is required to be titled or registered with an agency of this State or the federal government and are reported on individual transaction reporting returns is also subject to the allowance of advance trade-ins if all of the requirements set out at 86 Ill. Adm. Code 130.455(d) are followed. See the enclosed copy of 86 Ill. Adm. Code 130.455.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.